

COMMONWEALTH v. DANIEL PRUNTY

Barnstable Superior Court Docket No. 2004-117

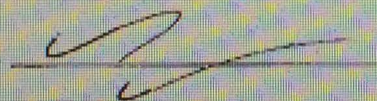
Endorsement regarding Commonwealth's Motion to Quash the Subpoena for Robert Welsh, III:

After hearing and consideration of the Motion and Opposition, the Commonwealth's Motion to Quash the Subpoena for Robert Welsh, III, is **ALLOWED**, largely for the reasons stated in the Commonwealth's Motion.

The defendant has failed to establish that the trial prosecutor, Robert Welsh, III, has personal knowledge of information relevant to the trial that cannot be elicited by other means.

The defendant's reliance on *Commonwealth v. Johnson*, 21 Mass. App. Ct. 28 (1985), is misplaced. That case involved a witness and her attorney claiming that they had a "deal," while the trial prosecutor said they did not. In this case, the witnesses in question have testified that they did not have deals, both during their trial testimony and during their plea colloquies. Additionally, defense counsel in *Johnson* was not permitted to properly cross examine the cooperating witness with her criminal history; whereas, in the instant case trial counsel cross examined the cooperating witnesses extensively, effectively attacking their credibility even if they testified that they did not have deals with the Commonwealth. Trial counsel was aware of all of the cooperating witnesses' inconsistent statements and motives to lie, effectively cross examining the witnesses with that information.

Again, the defendant has failed to establish that the trial prosecutor has any personal knowledge of information relevant to the trial that cannot be elicited by other means. For all of the foregoing reasons, the Commonwealth's Motion to Quash is **ALLOWED**.



Raffi Yessayan, J.

Date: December 19, 2018